



NOTICE OF DECISION
Development Services Department

Project Name:	Little Victory Wine Market Beer and Wine License
Request:	Allow a Type 20 Alcoholic Beverage Control License within a commercial suite
Discretionary Actions:	Public Convenience or Necessity (PCN) Findings
CEQA Determination:	Exempt
DECISION:	APPROVED
Project Number:	SRVRQST-004988-2021
DSD Number:	2021-79
Location:	960 S. Coast Highway 101 #108
Community:	Old Encinitas
APN:	258-182-07-01
Applicant:	Little Victory Wine Market
Representative:	Kirsten Potenza
Project Planner:	Chris Stanley, Assistant Planner cstanley@encinitasca.gov
Decision Date:	December 7, 2021
Report Approval:	<input checked="" type="checkbox"/> Katie Innes, Principal Planner

PROJECT DESCRIPTION

The applicant requests findings for public convenience or necessity for a proposed Type 20 (Off-Sale Beer & Wine) Alcoholic Beverage Control (ABC) license to sell beer, wine, and ciders for off-site consumption.

The applicant submitted an application to the California Department of Alcoholic Beverage Control for a Type 20 (Off-Sale Beer & Wine) ABC license for Little Victory Wine Market located at 960 S. Coast Highway 101 #108 in the Old Encinitas community area. Pursuant to City Council Resolution No. 96-37, and in accordance with Business and Professions Code Section

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23958.4(b)2, the applicant requests that the Director of Development Services determine that public convenience or necessity would be served by issuance of the Type 20 (Off-Sale Beer & Wine) ABC license.

PROJECT ANALYSIS

Background

A Design Review, Tentative Subdivision Map, and Coastal Development Permit (Case No. 13-043 DR/TM/CDP) was approved by the City on April 3, 2014, to develop a two-story mixed-use building over a basement garage with commercial and four residential units.

Project Site Characteristics:

General Plan:	General Commercial (GC)
Specific Plan:	Encinitas Downtown Specific Plan
Zoning District:	Commercial Mixed – First Street (D-CM-1)
Zoning Overlay:	Coastal Overlay Zone
Community Character Context:	Main Street Corridor
Other Key City Plan:	None
Notable State or Regional Plan and Law:	None

The site is located on the northwest corner of West 'I' Street and S. Coast Highway 101. The subject suite located on the property was previously occupied by Enviouskin, a personal care service tenant.

Adjacent Area:

Direction	General Plan & Zoning District	Community Character Context	Land Use
North	General Commercial (D-CM-1)	Main Street Corridor	Commercial
South	General Commercial (D-CM-1)	Main Street Corridor	Commercial
East	General Commercial (D-CM-1)	Main Street Corridor	Commercial
West	General Commercial (D-CM-2)	Main Street Corridor	Commercial

Municipal Code Analysis

The subject property is zoned mixed-use (D-CM-1) and is intended to create a first-floor retail commercial district with residential as a secondary use on commercial property. According to the zoning use matrix in the Downtown Encinitas Specific Plan, the sale of alcoholic beverages for off-premise consumption is permitted by right within the D-CM-1 Zone.

Other Policy or Plan Consistency

Census Tract Concentration and Public Convenience or Necessity

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In areas where there is an overconcentration of Type 20 (Off-Sale Beer & Wine) and Type 21 (Off-Sale General) ABC licenses, as defined by ABC and the Sheriff's Department, a new license may not be issued for a premise unless the local governing body determines that a public convenience or necessity would be served by the issuance of the license (Business and Professions Code § 23958.4).

Business and Professions Code Section 23958.4(b)(2) stipulates that the State Alcoholic Beverage Control may grant a license to an applicant premise if the "local governing body of the area in which the applicant premises are located determines that public convenience or necessity would be served by the issuance" of the license. The City Council adopted Resolution No. 96-37 pursuant to this Business and Professions Code Section to provide direction to staff relative to review of license applications. This Resolution also provided staff with direction for determining findings for public convenience or necessity.

The proposed Little Victory Wine Market is located within Census Tract 177.01. Currently, there are three Type 21 (Off-Sale General) ABC licenses in this census tract. According to the ABC, which provides census tract information on its website, three off-sale licenses are allowed within Census Tract 177.01 before it is considered to be over-concentrated. With the addition of this license, the census tract would become over concentrated.

The table below summarizes the services/operations that are offered by the existing establishments and the proposed establishment within Census Tract 177.01:

Business	ABC License Type	Beer and Wine	Full Liquor (Beer, Wine and Distilled Spirits)	Restaurant	Grocery
7-Eleven	21	X	X		
7-Eleven	21	X	X		
101 Wine Company	21	X	X		
Little Victory Wine Market	20	X			

7-Eleven and 101 Wine Company all have Type 21 (Off-Sale General) ABC licenses to sell beer, wine, and distilled spirits off-sale (off-site consumption). Little Victory Wine Market is a small retailer that would provide natural, organic, biodynamic, and locally sourced wines, beers, ciders as well as local produce, charcuterie ingredients, cutting boards, wine accessories such as glasses and carafes and cookbooks.

The proposed use is permitted by-right within the Encinitas Downtown Specific Plan and would be located within an existing mixed-use building that does not contain an alcoholic beverage retailer. The nearest establishment (7-Eleven) providing similar services is 1.9 miles from the subject establishment. The proposed location will serve residents and visitors by providing a unique experience through specialized beer and wine products that would not otherwise be available from other similar nearby retailers.

The San Diego Sheriff's Department provided the following crime data for the census tract: in the last year, within a quarter mile of the proposed location, there were 15 calls for service for driving under the influence of alcohol and four cases of alcohol related crime. Based upon on the data

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presented, the San Diego Sheriff's Department had no concerns related to the proposal for the Type 20 (Off-Sale Beer & Wine) ABC license.

ENVIRONMENTAL CONSIDERATIONS

The project has been determined to be exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15300.1 (Relation to Ministerial Projects). Section 15300.1 exempts projects over which public agencies exercise only ministerial authority. The request for public convenience or necessity is a ministerial action. The project meets the criteria for the exemption. The project does not qualify as one of the exceptions prescribed under Section 15300.2 (Exceptions) of the CEQA Guidelines and no historic resources are affected by the proposed project.

DISCUSSION

Staff assessed the overconcentration data, location, surrounding land uses, and crime data. In addition, staff sent the application with all supporting materials to the Sheriff's department for consideration and received no objections. Therefore, staff finds that a public necessity would be served by issuance of the license, with the conditions identified below, for the alcohol license.

FINDINGS

Based on the findings for a Public Convenience or Necessity per Resolution 96-37 and the aforementioned analysis, the Development Services Department has made the following findings to support the approval:

Finding for Necessity	Explanation of Finding
Factual data showing that the applicant premises will provide a unique experience which could not be met within the City of Encinitas. Aspects of the unique experience may include ambiance, aesthetics, or provisions of specialized services at the applicant premises.	Little Victory Wine Market is a specialty retailer for the sale of natural, organic, biodynamic, and locally sourced wines, beers, and ciders, as well as local produce, charcuterie ingredients, cutting boards, wine accessories such as glasses and carafes, and cookbooks. The proposed use would be located within an existing mixed-use building that does not contain an alcoholic beverage retailer. The nearest establishment (7-Eleven) providing similar services is 1.9 miles from the subject establishment. The proposed location will serve residents and visitors by providing a unique experience through specialized products. The establishment provides products that are natural, organic, biodynamic, and naturally sourced, which not otherwise available from other similar nearby retailers.
Information from the Encinitas Substation of the San Diego County Sheriff that similar establishments within the City of Encinitas have not contributed significantly to the crime rate within the City of Encinitas.	The San Diego County Sheriff's department reviewed the request and expressed no concerns related to this proposed retailer selling alcoholic beverages and that the establishment is not anticipated to contribute significantly to the crime rate within the city.

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CONCLUSION

The proposed request for a Type 20 (Off-Sale Beer & Wine) ABC license for the off-premise consumption of beer, wine and ciders, meets the criteria for findings of public necessity since the use provides a unique experience through specialized products not otherwise met by other similar retailers within the census tract. Therefore, with the conditions of approval identified below, staff makes the findings for necessity, as outlined in City Council Resolution 96-37.

DISCLOSURES

This notice constitutes a decision of the Development Services Department. Additional permits, such as Building and Grading Permits, may be required by the Development Services Department or other City Departments. It is the property owner's and applicant's responsibility to obtain all necessary permits required for the type of project proposed.

In accordance with the provisions of Municipal Code Section 1.12, the decision of the Development Services Department may be appealed to the City Council within 15 calendar days of the date of this determination. The appeal must be filed, accompanied by a \$300 filing fee, prior to 5:00 pm on the 15th calendar day following the date of this Notice of Decision. Any filing of an appeal will suspend this action as well as any processing of permits in reliance thereon in accordance with Encinitas Municipal Code Section 1.12.020(D)(1) until such time as an action is taken on the appeal.

SIGNATURE



Anna Colamussi
Planning Manager